IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6870 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ABDULNASIM ABDULSATTAR ANSARI

Versus

MANAGER,SHREENATH TEXTLES

Appearance:

1. Special Civil Application No. 6870 of 1993

MR LN MEDIPALLY for Petitioner No. 1-2

MR KV GADHIA for Respondent No. 1

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 06/03/2003

ORAL JUDGEMENT

The present petition is filed against the award and judgement dated 31-3-1993 passed by the Labour Court, Ahmedabad in reference (LCA No.1140/1988), whereby the

Reference filed by the petitioner-workman was rejected by the Labour Court.

2) It is the case of the petitioner that by an order dated 25-4-1988, the Assistant Labour Commissioner, Ahmecdabad raised an industrial dispute, as contemplated by Section 10 (1) of the Industrial Disputes Act, in respect of the claim of the petitioner to be reinstated in service with full back wages. The petitioner has filed his statement of claim, wherein it was contended that the petitioners were serving with the respondent-company since number of years. It was also contended that since the petitioners were compelled to discharge some illegal work, the petitioners formed a Union known as 'Gujarat Labour Union'. On account of formation of the aforesaid Union, under the guise of the closure of the respondent-company, the petitioner's services came to be terminated on 28-1-1988.

3) It was further stated that repondent-company had filed its written statement and the fact stated by the petitioners in the statement of claims were denied by the respondent-company. The Labour Court after having recorded the evidence and after having heard the parties concerned, by its judgement and award dated 31-3-1993 has rejected the reference made to the Labour Court and it is, this order, which is under challenge in the present petition.

4) Mr.L.N.Medipally has filed his appearance on behalf of the petitioners. However, he was not present when the matter was called out twice. On earlier occasions also, he was not present and hence, this Court was constrained to pass an order on 5-7-2002 that "if the learned advocate Mr.Medipally remains absent on the next date of hearing, the matter will proceed in absence of the learned advocate." Since Mr.Medipally is not present today, the matter is being heard in his absence.

5) Mr.B.A.Vaishnav appearing on behalf of Mr.K.V.Gadhia, the learned advocate for the respondent, has submitted that the Labour Court has considered the entire evidence on record and after considering the oral as well as written evidence and after hearing the learned advocates appearing for the respective parties had come to the right conclusion that there was no substance in the reference and it was rightly rejected. Mr.Vaishnav has taken me through the entire award, wherein the Labour Court has found that the appropriate procedure was followed by the respondent-company, notices were issued to the petitioners, their dues were also offered to them.

However, they have preferred to remain in service instead of accepting the dues. It was further submitted that the unit was closed and it was assured to the petitioners that as and when the unit would start again, they would be taken back in service and even when the unit was started the petitioners were offered the job, however, the petitioners have not resumed their duties and put a condition that a necessary purshis may be filed in the Court, then only they would join the duties. The Labour Court has also found that the petitioners failed to establish their case before the Labour Court and there was no evidence, which would suggest that the petitioners were removed from the service illegally and/or without following due procedure of law.

6) After having heard the learned advocate, Mr.Vaishnav appearing for the respondent and after having gone through the award passed by the Labour Court, I am of the view that the Labour Court has not committed any error either of law or on facts, but the Labour Court has correctly appreciated the evidence placed before it and after due examination and appropriate appreciation of the evidence had come to the correct conclusion, which cannot be interfered with while exercising the prerogative writ jurisdiction under Article 227 of the Constitution of India. I, therefore, find no substance in the present petition and hence it is dismissed. Rule is discharged with no order as to costs.

(K.A.Puj, J.)
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